UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

HENRY DEQUAN RHODES	)	
Petitioner,	)	
	)	
v.	)	**No. 3:13-0649**
	)	**Judge Trauger**
HENRY STEWARD	)	
Respondent.	)	

O R D E R

On May 22, 2013, the petitioner initiated this action with the *pro se* filing of a petition (Docket Entry No. 1) under 28 U.S.C. § 2254, for writ of habeas corpus.

Upon preliminary review of the petition, the Court determined that it had not been filed in a timely manner. Accordingly, an order (Docket Entry No. 10) was entered giving the petitioner thirty (30) days in which to show cause why the petition should not be denied for that reason.

Since the entry of this order, the petitioner has filed a Motion to Accept Late Filed Petition for Writ of Habeas Corpus (Docket Entry No. 15). In the Motion, the petitioner does not question the Court's finding that this action is untimely. Rather, he attributes the untimeliness of the petition to his attorney's failure thirteen (13) years ago to inform the petitioner that counsel would be withdrawing upon completion of the direct appeal of petitioner's conviction.
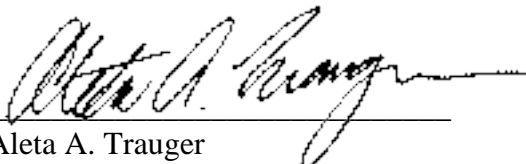
A lawyer's mistake, in and of itself, is not a valid basis for equitable tolling of the limitation period. Jurado v. Burt, 337 F.3d 638, 644-645 (6th Cir. 2003). The petitioner has waited thirteen years to file the instant action. Given the length of delay and a presumption that the petitioner has not been actively pursuing his legal options, the Court finds that the petitioner has failed to show

that he is entitled to an equitable tolling of the limitation period.

Accordingly, petitioner's Motion to Accept Late Filed Petition for Writ of Habeas Corpus is DENIED. The instant petition is DENIED as untimely and this action is hereby DISMISSED. Rule 4, Rules - - - § 2254 Cases.

Having failed to make a substantial showing of the denial of a constitutional right, a certificate of appealability shall NOT issue in this instance. 28 U.S.C. § 2253(c)(2).

It is so ORDERED.

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Aleta A. Trauger
United States District Judge